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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,126	03/04/2002	William Kirby Smith	13515.2USI1	5135

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EXAMINER

CHAMBERS, TROY

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 06/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,126

Applicant(s)

SMITH ET AL.

Examiner

Troy Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/19/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 17-19 in Paper No. 7 is acknowledged.
2. Claims 1-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over over either one of 4207857 (" '857") or 4372283 (" '283"), both issued to Balka. Balka discloses a pneumatic projectile propulsion apparatus, comprising: a pressure canister 12; an exit tube 24 connected to said pressure canister; a hopper 14; and a covered blower 140 ('857), col. 2, ll. 37-48 ('283).
3. With respect to claim 17, Balka discloses two pneumatic devices as described above. However, Balka does not disclose a blower that draws less than 15 amps nor is the speed of the projectile disclosed. However, neither limitation is inventive.

Regarding the amperage of the blower, both of the blowers disclosed by Balka are powered by electricity via an electrical cord 18. The voltage output of any outlet for any

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country is standard (e.g. 120 volts in the U.S.). So it is only a matter of varying the resistance to obtain the desired amperage. This objective can be achieved merely by choosing among the many blower models available each having various output characteristics including different amperage outputs.

Regarding the speed of the projectile, such a limitation would be obvious to and within the capabilities of one with ordinary skill in the art. For example, the determination of propulsion speed for a pneumatic propulsion device is similar to that of a firearm. If an individual wishes a bullet to travel further or faster, he or she can adjust the size of the cartridge (grain) or extend the length of the barrel. Similarly, for a pneumatically propelled device, it would be a simple matter of supplying a larger pneumatic projectile force (i.e. larger compressor/blower) or changing the size of the projectile or barrel. Indeed, applicant's own specification supports this position (pg. 4).

4. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of ('857) or ('283) in view of either one of U.S. 3930486 issued to Kahelin (" '486") or U.S. 4137893 issued to Beauchamp (" '893). Both of '857 and '283 have been described above. But, both '857 and '283 differ from the claimed device in that the covered blower is located in positions other than that disclosed by Balka (i.e. in the canister). However, the location of the compressor or blower outside of the pressure canister is well known in the art. For example, both of '486 and '893 discloses compressors located outside of the pressurized canisters. At the time of the invention, one of ordinary skill in the art would have found it obvious to locate the covered blowers in the positions claimed by the applicant. The suggestion/motivation for doing so would

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have been to have easy access to the blower for repair/maintenance purposes without having to access the pressurized canister.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents listed on form PTO-892 are cited as of interest to show similar pneumatic propulsion devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (703) 308-5870. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (703) 306-4198.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.


MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER